

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 512 of 2001

in

SPECIAL CIVIL APPLICATION No 8994 of 1999

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

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NARENDRAKUMAR SARADVA

Versus

STATE OF GUJARAT  
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Appearance:

1. LETTERS PATENT APPEAL No. 512 of 2001  
MR MURALI N DEVNANI for Appellant No.  
Mr. MA Bukhari, AGP for Respondent No. 1-3  
MR HV PUJARA for Respondent No. 4  
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CORAM : ACTING CHIEF JUSTICE MR.JN BHATT  
and

Date of decision: 26/03/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

One Savjibhai Saradva was working as a School Teacher with respondent No.4 Vivekanand Mandir who died, while in service, on 4th September 1983 and at that time appellant, original-petitioner, Narendra was minor who attained majority in the year 1991. He thereafter filed the writ petition before this Court for appropriate relief and direction to the respondent No.4 School for compassionate appointment. The application for compassionate appointment was not forwarded to the State Government by the District Education Officer. Therefore he approached the Secondary Education Tribunal, and the Tribunal by its order dated 17th March 1998 directed the petitioner to make a representation.

2. Accordingly a representation came to be made on 28th December 1998 which came to be rejected. There is no dispute about the fact that by virtue of the Government resolution dated 4th July 1988 the employees of non-Government Colleges came to be covered including the employees of the Secondary Schools. It was also considered and representation came to be rejected. Therefore, the original-petitioner by invocation of Article 226/227 claimed the entitlement of appointment on the basis of compassionate scheme. The learned Single Judge, after consideration of the facts and circumstances, held that the appellant, original-petitioner, cannot be offered the appointment on the basis of compassionate scheme. In our opinion, the application for compassionate appointment, with delay of almost 10 years, proved to be fatal. We also examined the scheme. The view taken by the learned Single Judge, in the peculiar circumstances, cannot be faulted. The very purpose and benign object is to see that the dependents and children of deceased employees, who die in harness, are not inconvenienced, exploited, and could get employment out of turn on the policy of compassionate appointment of the Government. In this Appeal also, we find ourselves in complete agreement with the learned Single Judge and therefore there is no fit and appropriate case for interference against the impugned order in exercise of the powers under Clause 15 of the Letters Patent. The Appeal shall stand dismissed accordingly with no order as to costs.

[ J.N. Bhatt, Actg.C.J.]

rmr. [ K.A. Puj, J.]